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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 GARY CASTERLOW-BEY,

7 Plaintiff,

8 v.

9 PIERCE COUNTY SHERIFF,

10 Defendants.

Case No. C17-5587 BHS-TLF

ORDER DENYING MOTION TO
STRIKE, PERMITTING
ADDITIONAL REPLIES BY
DEFENDANTS AND RE-NOTING
MOTIONS TO DISMISS

11 The Court has received plaintiff's response to defendants' motions to dismiss, Dkt. 65,
12 and the Nurse Defendants' motion to strike the response, Dkt. 67.

13 Plaintiff's response was not timely filed. Pursuant to LCR 7(d)(3), plaintiff's opposition
14 was due on June 18, 2018, the Monday before the June 22 noting date of defendants' motions;
15 however, because plaintiff filed the response by mail, he was required to mail it on or before
16 Friday, June 15. *Id.* Instead, the response, which is dated June 19, 2018, was received by the
17 court on June 25, 2018. Dkt. 65. The Nurse Defendants seek to strike the response due to its
18 untimeliness. Dkt. 67.

19 Plaintiff is proceeding *pro se* in this matter. Although that means that plaintiff's pleadings
20 are to be construed liberally, "[p]ro se litigants must follow the same rules of procedure that
21 govern other litigants." *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987), *overruled on other*
22 *grounds Lacy v. Maricopa Cty.*, 693 F.2d 896 (9th Cir. 2012). However, courts have "a duty to
23 ensure that pro se litigants do not lost their right to a hearing on the merits of their claim due to
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1 ignorance of technical procedural requirements.” *Balistreri v. Pacifica Police Dep’t*, 901 F.2d
2 696, 699 (9th Cir. 1990); *see also McGuckin v. Smith*, 974 F.2d 1050, 1058 (9th Cir. 1992),
3 *overruled on other grounds WMX Techs., Inc. v. Miller* 104 F.3d 1133 (9th Cir. 1997). Here, any
4 prejudice to defendants caused by the tardiness of plaintiff’s filing can be cured by permitting
5 them an opportunity to respond to it. The Court therefore **ORDERS** as follows;

- 6 1. The Nurse Defendants’ motion to strike is **DENIED**
- 7 2. All defendants may reply to plaintiff’s response no later than **July 20, 2018**; and
- 8 3. Defendants’ motions to dismiss are **RE-NOTED** for **July 20, 2018**.

9 Dated this 3rd day of July, 2018.

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15 Theresa L. Fricke
16 United States Magistrate Judge
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